Below is series interesting HIPAA related e-news items. A very interesting item is the information sources at the WEDI and AHIMA sites noted in the item "[hipaalive] WEDI & AHIMA for info on security, etc."

Please be sure to note that in some cases the information presented may be the opinion of the original author. We need to be sure to view it in the context of our own organizations and environment. In some cases you may need legal opinions and/or decision documentation when interpreting the rules.

Have a great day!!!
Ken

Items included below are:
    [hipaalive]   Consent and Authorization
    [hipaalive]   HIPAA preempts contrary state law except.....
    [hipaalive]   WEDI & AHIMA for info on security, etc.
    [hipaalive]   Penalties
    [hipaalive] COVERED ENTITIES - student health plans
    [hipaalive] TCS: Receipt of non-compliant EDI
    [hipaalive]   Conference Announcements
    [hipaalive] TCS: EDI Question -- Claims Attachments
    [hipaalive] TCS: Mandating Provider Claims Be Submitted to Third Parties
    [hipaalive] PRIVACY: SCOPE OF RULE
    [hipaalive] Members Only Doc Site listing
    H I P A A L E R T - l i t e

* * * * * * * * * * * * * * * * [hipaalive] Consent and Authorization
* *
*** This is HIPAAlive! From Phoenix Health Systems ***
Consent and Authorization Forms are two different things.

Consent is approval to disclose PHI for treatment, payment and operations.
A treatment provider may decline to treat if consent is not given.
Restrictions may be placed on the consent. Example: An adult child can withhold all information from family members.
Consents can be revoked.
Consent restrictions can be revoked.
(There are a bunch of other requirements for Consent forms)

Authorizations is approval to disclose PHI for other than routine treatment, payment, and operations. Treatment cannot be conditioned on completion of this form.
Authorizations can be revoked.
(There are a bunch of other requirements and restrictions related to Authorization Forms)

Consent: For TPO. Revocable. No time limit required.
Authorization: For everything else. Also revocable. Must end at a certain time or event.

Section 164.506:
…a covered health care provider must obtain the individual's consent, in accordance with this section, prior to using or disclosing protected health information to carry out treatment, payment, or health care operations.

Section 164.508:
Except as otherwise permitted or required by this subchapter, a covered entity may not use or disclose protected health information without an authorization…

Regards, Diane
--
Diane Boettcher
Webmaster/Editor: HIPAAdvisory, HIPAAlert, HIPAAlive, HIPAAnotes
Phoenix Health Systems

******************** [hipaalive] HIPAA preempts contrary state law except..... **********************
*** This is HIPAAlive! From Phoenix Health Systems ***

I'm not a lawyer, but I'll take a whack at it:

According to Section 160.203, HIPAA preempts contrary state law except when
one of the following applies:

(a) "a determination has been made by the secretary…" that the state law is necessary for one or more of the various reasons stated in the regulations; or,
(b) "the provision of State law … is more stringent…"; or,
(c) "the provision of State law provides for [public health] reporting…"; or,
(d) the provision of State law requires a health plan to report…"

So the determination by the secretary is not necessary if any of (b), (c), or (d) applies. Which means we're left to our own devices to determine when
the state law is more stringent. At least until some court gives us further guidance.

Bill MacBain
MacBain & MacBain, LLC
wam@MacBainandMacBain.com

****************** [hipaalive] WEDI & AHIMA for info on security, etc.
****
*** This is HIPAAlive! From Phoenix Health Systems ***
I have used AHIMA web site to use their model consent,
authorization, and notice of practice to draft my own version. Let me know
if you need further help.
John Mares
*** This is HIPAAlive! From Phoenix Health Systems ***

On the AHIMA web site, look under "hot topics." Select "HIPAA," then
"Models and Plans," then scroll down the the May 2001 brief on consent. The
brief includes a sample consent form.

I don't see anything equivalent on authorizations, but I may have missed it.
Send them an e-mail to ask about it.

Also, the cost of an individual AHA membership isn't too steep.

Bill MacBain
MacBain & MacBain, LLC
wam@MacBainandMacBain.com

*** This is HIPAAlive! From Phoenix Health Systems ***
To add to what Harry said, the Workgroup for Electronic Data Interchange
(WEDi) is currently working on white paper (
http://snip.wedi.org/public/articles/index.cfm?Cat=17
<http://snip.wedi.org/public/articles/index.cfm?Cat=17 >) that would be
a good resource to check regarding security in general. It contains an
excellent matrix on recommended technology to meet the requirements of
HIPAA Security rule. The HIPAAdvisory website also has a section on
technology you may be interested in checking out (
http://www.hipaadvisory.com/tech/index.htm
<http://www.hipaadvisory.com/tech/index.htm>)

Rick
Rick Ensenbach CISA, CISSP
Managing Director
InterSec Communications, Inc.

      <<<<<<<<<<<<<   <<<<<<<<<<<<
<<<<<<<<<<

Here is some info Ken found at:
http://www.hipaadvisory.com/tech/index.htm

Technologies for electronic
information security and privacy...

Ensuring the security and privacy of health
information requires using sophisticated
technologies.

Here are some of the key technologies, in layman
language and relevant articles.

Application Service Provider (ASP)
Security Issues

Cryptography

Digital Signature - Articles on Esign

Disaster Recovery Resources (New!)

Firewalls: A Primer
Firewalls: Part II

Intrusion Classification and
Intrusion Detection

Security Protocols

Proxy Server

Virtual Private Networks (VPN)
     A Primer
     How VPNs Save Money and Improve
     Security
     Security and Performance: VPNs for
     the Health Care Industry
     Visualize the Benefits of VPN for
     Your Biz (SearchHound article) -
     What VPNs are, the ways to set one
     up, and their hidden dangers

S/MIME

P3P (Platform for Privacy Preferences)

PGP (Pretty Good Privacy)

PKI (Public Key Infrastructure)

'Secure' U.S. Site Wasn't Very by Declan
McCullagh, Wired News, July 6, 2001

More Tech Articles

Internet Privacy:
Implementation of
Federal Guidance
for Agency Use
of "Cookies"
GAO Report

AHIMA Practice Brief on
E-mail Security

PKI Forum White Papers
on PKI Policy and
Interoperability Issues

NSA Glossary of Terms
Used in Security and
Intrusion Detection

Survey Your Software
Vendors' HIPAA
Readiness Now (PDF)
from Health Information
Compliance Insider

The Seven Top
Management Errors that
Lead to Computer Security
Vulnerabilities

Top 10 Info
Security Threats
by S. K. Parmar, excerpted
from his handbook
Introduction to Security
(PDF)

Scope of Authorization to
Use of Electronic
Signatures in Enacted

Legislation

Security Advisory Sites

ASPIRE - mapping HCFA
1500 to ASNI 837

Know the Rules,
Use the Tools
Privacy Guide from Senate
Judiciary Committee

Top Ten Critical
Internet
Security Threats
How to Eliminate Them

National HealthKey
Program
Multi-state Healthcare PKI
Initiative

*************************** [hipaalive]   Penalties
****
*** This is HIPAAlive! From Phoenix Health Systems ***
On several occasions the DHHS representatives have stated that the
$25,000 cap applies to each "standard" that is violated. So each
transaction set is a separate standard, each code set is a separate
standard, etc. Look in the final rule for "Standard:". Of course, this
could change with the enforcement rule.

Kepa Zubeldia
Claredi

**************** [hipaalive] RE: COVERED ENTITIES - student health
plans **************************
*** This is HIPAAlive! From Phoenix Health Systems ***

Seems to me student health plans fit the definition of covered entity.
Welcome to the club.

Bill MacBain
MacBain & MacBain, LLC
wam@MacBainandMacBain.com

-----Original Message-----
From: Allan Heindl [mailto:ahein@gtlic.com]

Sent: Monday, August 06, 2001 3:31 PM
To: HIPAAlive Discussion List
Subject: [hipaalive] COVERED ENTITIES

*** This is HIPAAlive! From Phoenix Health Systems ***

160.103 titled definitions defines a covered entity as a health plan, a
health care clearinghouse or a health care provider. A health plan is
defined as an individual or group plan that provides, or pays the cost of
medical care.

2791(c)(1) of the PHS Act sets forth the types of excepted benefits to
include accident only and disability income plans. With respect to college
plans that are marketed to students and provide accident and sickness type
coverage, does anybody believe that these type of plans are excepted? If
so, as a carrier providing health plans to students, I would be interested
in an argument that would be supportive.

Thanks.

*********************** [hipaalive] Re: TCS: Receipt of non-compliant
EDI ***************************
*** This is HIPAAlive! From Phoenix Health Systems ***
It depends…

- If the transaction is not even X12, the rejection is pretty much
trading partner specific. You may get some sort of electronic rejection
message via email or some other mechanism, or a phone call or a letter.

- If the transaction is syntactically incorrect (not even in X12 syntax)
but it is inside an ISA envelope you send a TA1 segment rejecting it. If
possible you should also get a 997 transaction, depending on where the
syntax problem occurs. If you have a good ISA and GS, but bad syntax
inside the transaction itself, you should get both the TA1 and the 997.

- If the transaction meets X12 syntax but does not meet the HIPAA
requirements in the implementation guides you could get an 824
transaction (not a HIPAA requirement) or it could still go straight
through to the "application" if the error is not too severe.

- If the error is at "application" level, such as a non-covered patient,
or an unknown provider, you should get an application rejection,
probably with the 277, 835, 271, 278, 824, or other transactions.

There is not a healthcare implementation guide for the 824. At least

not yet.

This topic is quite complex and has been addressed by one of the WEDI-SNIP white papers: "Front-end edits" downloadable from the SNIP web site.

Kepa Zubeldia
Claredi

********************** [hipaalive]   Conference Announcements
****
*** This is HIPAAlive! From Phoenix Health Systems ***

Weekly Conference Announcement:

As a service to HIPAAlive members, every week Phoenix Health Systems, sponsor of HIPAAlive, will announce upcoming HIPAA-related conferences. The
conference announcements will go out to the entire HIPAAlive list on a weekly basis. For those who want to announce a conference, please e-mail us
at info@phoenixhealth.com. You may view past announcements at:
http://www.hipaadvisory.com/news/conference/

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SEPTEMBER

HIPAA Transactions: Claims (and other) Attachments
HIPAA Standards Setting Organization (SSO) Health Level Seven (HL7)/Attachments SIG Interim Meeting
September 10 - 12, 2001
Holiday Inn Inner Harbor Hotel, Baltimore, MD
http://www.hl7.org
Contact: Peggy Leiby, peggy@HL7.org

HIPAA Transactions: All except Retail Pharmacy Claims
HIPAA Standards Setting Organization (SSO) Accredited Standards Committee
X12/Insurance Subcommittee/Healthcare Task Group
September 30 - October 5, 2001
Hyatt Regency Miami, Miami, FL
http://www.x12.org/x12org/meetings/x12_mttg_102001.pdf

OCTOBER

Getting Started as an Information Security/Privacy Officer in Healthcare

MIS Training Institute
October 9 - 10, 2001
Boston, MA
http://www.misti.com/seminar_list.asp?sem=HSP

HIPAA Security and Privacy Briefing
MIS Training Institute
October 16 - 17, 2001
Orlando, FL
http://www.misti.com/seminar_list.asp?sem=BR1

NOVEMBER

HIPAA Security and Privacy Briefing
MIS Training Institute
November 6 - 7, 2001
Los Angeles, CA
http://www.misti.com/seminar_list.asp?sem=BR1

Getting Started as an Information Security/Privacy Officer in Healthcare
MIS Training Institute
November 14 - 15, 2001
Palmer House Hilton & Towers, Chicago, IL
http://www.misti.com/seminar_list.asp?sem=HSP

DECEMBER

Getting Started as an Information Security/Privacy Officer in Healthcare
MIS Training Institute
December 4 - 5, 2001
Crowne Plaza Las Vegas, Las Vegas, NV
http://www.misti.com/seminar_list.asp?sem=HSP

HIPAA Security and Privacy Briefing
MIS Training Institute
December 12 - 13, 2001
Boston, MA
http://www.misti.com/seminar_list.asp?sem=BR1

*************** [hipaalive] RE: TCS: EDI Question -- Claims
Attachments **************************
** This is HIPAAlive! From Phoenix Health Systems ***
In case you or anybody else is interested in the process for defining
HIPAA Claims [and other electronic] Attachments, this is being done by
HL7's Attachments Special Interest Group (ASIG) in a mutually
cooperative joint effort with [currently three] X12N work groups.

For start-up information, access www.hl7.org, select Special Interest Groups, and then select Attachments.

Also note that the next meeting of ASIG is scheduled for 10-12 September in Baltimore. Discussions of early efforts to define dental periodontal charts attachments are on the agenda. Should anybody wish to participate, registration for that meeting closes on 10 August. Again, www.hl7.org is the place to start.

Feel free to get back to me on- or off-line should you need anything further.

> Dave Feinberg
> Co-Chair, HIPAA Implementation Work Group
>   Insurance Subcommittee (X12N)
>   Accredited Standards Committee X12
> Member, HL7 Attachments SIG
> Voting Member, HL7 and X12
> Rensis Corporation [A Consulting Company]
> 206-617-1717
> DAFeinberg@computer.org

************ [hipaalive] RE: TCS: Mandating Provider Claims Be Submitted to Third Parties ***********
*** This is HIPAAlive! From Phoenix Health Systems ***

Health plans may require providers to submit transactions to a clearinghouse, rather than directly to the plan. However, the cost to the provider may be no greater than if would be if the transaction were submitted directly. That is, the plan must pick up the cost of the clearinghouse.

See in the transaction regs: (1) section 162.923, regarding a covered entity using a business associate, including a clearinghouse acting as a business associate, to conduct transactions on its behalf; and, (2) section 162.925(5) regarding who pays the clearinghouse fees.

Bill MacBain
MacBain & MacBain, LLC
wam@MacBainandMacBain.com

************** [hipaalive] RE: PRIVACY: SCOPE OF RULE
****
See, for example, Federal Register page 82477:

"We note that health care providers who do not submit HIPAA transactions in

standard form become covered by this rule when other entities, such as a billing service or a hospital, transmit standard electronic transactions on their behalf. A provider could not circumvent these requirements by assigning the task to its business associate since the business associate would be considered to be acting on behalf of the provider."

Bye for now -- Harry

Harry E. Smith, CISSP
Timberline Technologies LLC
Telephone: 303-717-0793
Email: Harry_E_Smith@TimberlineTechnologies.com

You are correct that the final privacy rule expanded the definition of protected health information to include paper records and oral communications. Bear in mind, however, that this definition has meaning only as it applies only to records maintained by covered entities. A physician who conducts business on a "paper-only" basis is not a covered entity and therefore does not come under the scope of the HIPAA privacy rule. The information maintained in a "paper-only" practice is not covered by HIPAA because the practice is not covered by HIPAA. It is also worth noting that if a "paper-only" practice sends paper claim forms to a billing service that, in turn, transmits the information electronically, then the practice becomes a covered entity.

Bye for now -- Harry

Harry E. Smith, CISSP
Timberline Technologies LLC
Telephone: 303-717-0793
Email: Harry_E_Smith@TimberlineTechnologies.com

********************* [hipaalive] Members Only Doc Site listing
****
*** This is HIPAAlive! From Phoenix Health Systems ***

Members Only Doc Site listing:

As an additional service to HIPAAlive members, HIPAAdvisory.com maintains the Members Only Doc Site, a central location for the exchanging and sharing of HIPAA compliance working documents. Only subscribed members of HIPAAlive
may join and use the Doc Site.

Below is a listing of all documents currently in the Members Only Doc Site. For more information on joining the Members Only Doc Site:
http://www.hipaadvisory.com/MembersOnlySignup/index.cfm

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Today's date: 8/6/01

Electronic Signatures:
  Acronyms 4-4-00.doc
  eSignatures_Overview.pdf

General Info, Security, and Privacy:
  Application Service Providers and Protected Health Information.doc
  StepsToInfoSecurityCompliance.htm
  Sample Request for Proposal to Conduct HIPAA Assessment.doc
  BetterBusBureauCode of E-commerce.pdf
  ConfidentialityAgreement.doc
  Contingplan.htm
  ContingPlanngoutline.htm
  E-health Ethics - DRAFT CODE.htm
  E-mail Policy.doc
  Fax medical record policy.doc
  GenInformationPolicy.doc
  HospitalSecurityMgmtPlan.doc
  privacypolicy2.htm
  privacypolicy5.htm
  privacypolicy7.htm
  privacypolicy8.htm
  Privacypolicy9.htm
  ProviderInformationSharingAgreemt.doc
  Sample Privacy Policy1.htm
  SecurityResponsibilityPolicy.doc
  Vendor Confidentiality Agreement.doc
  HINT - nj chapter154_.doc
  HIPAA-HCFA Doc Repository 1_0 Ref Articles HIPAA Proj Plan and Checklist
(Draft).htm
  HIPAA-HCFA Document Repository 1_0 Reference Articles HIPAA Project
Plan
and Checklist (Draft).htm
  Project Plan and Checklist (Draft).htm
  Sample HIPAA RFP Privacy Org.pdf
  Challenges ofImplemHIPAAPres.ppt
  GeneralHIPAAPresentation.ppt
  HIPAA-AdminSimplificPres.ppt
  HIPAApresHBOC.pdf
  SecurityPres.ppt
  WEDI-RespondingToHIPAAPres.ppt

Privacy:
  Application Service Providers and Protected Health Information.doc

HIPAA Privacy Rules - Policy Inventory.doc
HIPAA Privacy Rules - Policy Inventory.rtf
Matrix.doc
Rule Chart.doc
EmployeeConfidPledge.htm
PrivacyPolicy.htm
SampleConfidentialityPolicy.htm
SampleConfidPolicy.doc
E-health Ethics - DRAFT CODE.htm
Suggested Privacy Officer Job Duties.doc

Security:
  CERT-Understanding Malicious Content.doc
  Computer Virus Resources.doc
  Practices for Protecting IR Assets Ch 1_Establishing an Information
Security Policy.htm
  Practices for Protecting IR Assets Ch 2_Identifying Critical Assets.htm
  Practices for Protecting IR Assets Ch 3_Tools and Practices for Critical
Asset Protections.htm
  Practices for Protecting IR Assets Ch 4_Security Incident Planning.htm
  Security Assessment Tool.doc
  SecurityAssessmtCheckList.htm
  ContingencyPlanGuidelines.htm
  ContingPlanngoutline.htm
  Disasterplan.htm
  HCFA's INTERNET SECURITY POLICY.htm
  role_based_access.pdf
  SecurityDirectorJobdescr.doc
  SecurityStandards-Practices.doc
  ASSOCIATE TECHNICAL INFORMATION SECURITY SPECIALIST.doc
  ENTERPRISE INFORMATION SECURITY OFFICER.doc
  HealthKey-PKI.pdf
  Practices for Protecting IR Assets.htm
  TECHNICAL INFORMATION SECURITY SPECIALIST.doc
  HowtoGiveSecurityTraining.ppt

Transactions and Code Sets:
  Summary of Preamble of TCS Reg.doc
  SubchapterC-TransStandards.html
  EDI Mapping Document.xls
  HIPAA TransactionsRequirements.doc
  AboutEHNAC.ppt
  Tutorial-TransactionsCodeSets.ppt

Unique Identifiers:
  (none)

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Kim Diamondidis
Web Assistant
Phoenix Health Systemsr
mailto:kdiamondidis@phoenixhealth.com

* H I P A A L E R T - l i t e
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H I P A A L E R T - l i t e   August 14, 2001
>> From Phoenix Health Systems…HIPAA Knowledge…HIPAA Solutions <<
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Subscribe free at: http://www.hipaadvisory.com/alert/
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H I P A A n e w s

  *** Industry Group Asks for Speedy Revision of Privacy Rules ***

The Healthcare Leadership Council (HLC) sent a letter to DHHS
Secretary Tommy Thompson on Monday asking for "swift action to
complete and publish modifications to new federal rules on medical
privacy." In the letter, HLC urges DHHS to "speed" efforts to publish
modifications to the rule." Last minute modifications pose real
problems for America's health care system," the letter said.
http://www.hipaadvisory.com/news/2001/hlc0806.htm

  ** Gartner Report: Consumers Want Privacy and Security Online ***

A new report from Gartner advises companies to use and promote
privacy and security protections in order to capture the yet
untapped consumer base of Web shoppers with low confidence in the
privacy and security of Web transactions. The report finds that over
80 percent of online American adults are very concerned about the
security of bank and brokerage account numbers, as well as their
Social Security and credit card numbers when doing online transactions.
The report also indicates that approximately 60 percent of online
adults say security and privacy concerns stop them from doing
business on the Web.
http://www.hipaadvisory.com/news/2001/bw0807.htm

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H I P A A l a t e s t

NEW IN HIPAALIVE:
- Premium Digest starts in September:
http://www.hipaadvisory.com/live/prem.htm

NEW IN HIPAA Conference Calendar:
- August: Implementing XML (Hands-On Training)
http://www.hipaadvisory.com/news/calendar/august2001.htm#edixml
- September: 2001 HIPAA Executive Summit
http://www.hipaadvisory.com/news/calendar/September2001.htm#aliexec
- October: Forrester Healthcare Forum
http://www.hipaadvisory.com/news/calendar/october2001.htm#forrester
- October and November: Getting Practical with Privacy
http://www.hipaadvisory.com/news/calendar/october2001.htm#smaahima

NEW IN HIPAAzine:

- New Officers Prepare To Protect Privacy
Privacy officers describe how they're taking on the role and learning
to prioritize tasks to help their organizations comply with HIPAA.
http://www.hipaadvisory.com/news/Hipaazine.htm#hdm0801privoffR.do

NEW IN HIPAAUDIO:

- Legally HIPAA! A Summer Audioconference Series
with Steve Fox, Esq., author of HIPAAdvisor

  August 22: Developing Privacy/Security Policies and Procedures
http://www.hipaadvisory.com/order/legal/index.cfm

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HIPAAlert-lite is our weekly version of HIPAAlert, Phoenix Health
Systems' acclaimed monthly email newsletter. HIPAAlert-lite is
published each Monday to keep subscribers abreast of breaking news
and industry developments in healthcare privacy and security.

Our Other HIPAA resources:
Web site: http://www.hipaadvisory.com
Discussion List: http://www.hipaadvisory.com/live/
Weekly Awareness Note: http://www.hipaadvisory.com/notes/
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COMMENTS? Email us at info@phoenixhealth.com
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ARCHIVES: http://www.hipaadvisory.com/alert/newsarchives.htm
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http://www.hipaadvisory.com/live/
Get a weekly byte of HIPAA at:
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http://www.hipaadvisory.com/signup/change.cfm